

ANCILLARY ORDERS ON MUSLIM DIVORCE  
THE PRACTICE OF SYARIAH COURT IN STATE OF JOHOR

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## 1.1 INTRODUCTION

The increasing number of divorces in the State of Johor has caused great concern in our society. Statistics compiled by various syariah courts in Johor have revealed that the rate of divorce, even though fluctuating for the past five years, would tend to rise rapidly if no proper measures are taken to help to reduce it. In this way, the syariah courts and other religious departments play a vital role in helping to enforce the law on marriage and divorce, effectively having regards to the Quranic principles and the Sunnahs.

The main purpose of this paper is to discuss the powers of the syariah court to make ancillary orders on divorce; emphasising on the role of Syariah Court as an Islamic judicial institution in the State of Johor to which the Johor Administration of Islamic Law Enactment, 1978 applies.

The Muslim Law as administered in the State of Johor, like all other states, is varied by Malay Custom and applies to all Muslims but is subject in its application to variations in accordance with the school of law to which the parties belong. In Johor, the most prevalent school of thought followed by the Muslim here is the Shafie School.

In Johor, Muslim Law on Marriage and Divorce is mainly the orthodox Shafie School. The Enactment relating to Muslim Law deals

mainly with its administration. Furthermore, the administration of Muslim Law in Johor is varied by Malay customs.

The major part of this paper is devoted to the following areas:-

- (1) divorce in general
- (2) maintenance
- (3) maskahwin
- (4) mata'ah
- (5) interest of the children
- (6) division of property on divorce

In this respect cases which are decided by the Syariah Court are discussed to explain these matters. As each state has exclusive jurisdiction over the field of Islamic law and as a result, there is no uniformity of principle or practise from state to state. As every state has different provisions in their Enactment, thus giving different rights and protection to the divorce parties, it is felt that there is a need for the implementation of a fairer and uniform Islamic Law. Moreover, it has often been said that the practice in Malaysia falls seriously short of the principles of the Islamic Family Law, as laid down in the Quran and the hadith (phrophet's saying).

The writer has conducted interviews with the Chief Kadhi of Johor, Datuk Hj. Hasbullah Razak and a few other persons to determine the orders practice in Syariah Court of Johor.